

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

#### NEW SECTION

**WAC 458-20-273 Renewable energy system cost recovery.** The customer investment cost recovery incentive payment ("incentive payment") covers the purchase and use of renewable energy systems that produce electricity, such as: Solar energy systems, wind generators, and certain types of anaerobic digesters which process manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container. Any individual, business, or local government that purchases and uses such a system may apply for an incentive payment from the light and power business that serves their property. The light and power business then gets a credit on its public utility tax for the amount it pays to customers as incentive payments. A light and power or gas distribution business will not qualify for an incentive payment. This program applies to measured customers' renewable energy system kilowatt-hours generated between July 1, 2005, and June 30, 2014.

The purpose of the law creating this incentive payment program is to develop a market for renewable energy systems and to promote the manufacture of these systems in Washington state. To facilitate this purpose, these regulations are written to facilitate prospective customers of renewable energy systems in the purchase and use of their systems, in conjunction with the incentive payment program.

(1) **What is my first step as a possible customer of a renewable energy system?** First, contact the light and power business serving your property to confirm it is participating in this incentive payment program. Participation by light and power businesses is discretionary. Further, ask your light and power business for a copy of its procedural requirements and application for participating in this incentive payment program. Only your light and power business has the authority to determine whether your incentive payment will be authorized or denied.

(2) **How do I certify my renewable energy system?** After contacting your light and power business, you must apply for a system certification to the department of revenue. The department of revenue will consult with the climate and rural energy development center at Washington State University's energy extension regarding your certification request. The

certification form can be downloaded from the department of revenue's web site located at: dor.wa.gov, or may be obtained by calling the department at: 1-800-647-7706. The certification form requires certain verifiable information, including the following:

(a) Your name, address, and the address of the renewable energy system;

(b) Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their application and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);

(c) Your statement that your renewable energy system generating electricity is located on your own real property and that your property is also served by a participating light and power business;

(d) Your statement that the electricity you produce on your own renewable energy system does not include electricity generated by a light and power business or a gas distribution business;

(e) You must also state that your renewable energy electric generation system uses:

Any solar inverter or modules manufactured in Washington state;

A wind generator powered by blades manufactured in Washington state;

A solar inverter manufactured in Washington state;

A solar module manufactured in Washington state;

Solar or wind equipment manufactured outside Washington state; or

An anaerobic digester which processes manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container.

(f) You must also state that your own generated electricity can be transformed or transmitted for entry into or operation in parallel with electric transmission and distribution systems;

(g) The date that your local jurisdiction issued its final electrical permit on your renewable energy system;

(h) Your statement that you understand that this information is provided to the department of revenue in determining whether the light and power business correctly calculates its credit allowed for customer incentive payments and that your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury; and

(i) If you have just purchased a property with a certified renewable energy system, you must reapply for certification as the new owner.

**(3) How long will it take before I receive notification of whether the department of revenue, in consultation with the**

climate and rural energy development center at Washington State University's energy extension, has approved the request for my system's certification? The department of revenue will notify you in writing within thirty days whether your request for system certification qualifies for the incentive payment program. Certification is merely an administrative and preliminary step, however, and ultimately it is the application procedure with the light and power business that serves your property which will determine whether your incentive payment is authorized or denied.

(4) After the department of revenue approves my system's certification, how do I apply for my incentive payment? The next step is to apply for your incentive payment from the light and power business that serves the property you own, on which the renewable energy system is located. You must annually apply by August 1st of each calendar year. The department of revenue will create an application form for use by customers when applying for the incentive payment with their light and power business. However, individual light and power businesses may create their own forms or use the department's form in conjunction with their additional addendums. Further, your light and power business has the authority to verify and make separate determinations on the matters covered in your earlier certification with the department of revenue. If your light and power business finds the certification process made an error in determining whether your renewable energy system's generated electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems, then the determination by the light and power business shall be controlling and it has the authority to decertify your system.

There is a special transition rule for the first annual period from July 1, 2005, through June 30, 2006. For only the first year of the incentive program, recognizing that each utility will establish its own procedures and requirements for metering the output of customers' renewable energy systems, the department will accept kWh production readings taken from the inverter or from an owner installed utility meter. The owner must report the reading of the meter from July 1, 2005 (or make a good-faith estimation if no reading exists) and the reading on June 30, 2006. You must also report the array size in DC watts. This information will be used to validate reported watt hours for the first year. Your participating light and power business is not required to perform independent reading or monitoring of your system's electric generation during the first year. Further, for the first year only, the power and light business serving your property shall have one hundred twenty days to notify you whether your incentive payment is authorized or denied and shall process your annual payment, if any, by

**December 31, 2006.**

Some of the verifiable information you must provide includes:

Your name, address, and the address of the renewable energy system;

Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their certification request described above and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);

The date of the letter from the department of revenue certifying that your renewable energy system is eligible for incentive payments;

Your statement that your system has been operable throughout the year and that your light and power business will be allowed reasonable access to read your electric production meter for your system in order to calculate the kilowatt-hours generated by your renewable energy system during the prior fiscal year beginning July 1st and ending on June 30th; and

Your statement that you understand that this information is provided to the department of revenue in determining whether the light and power business correctly calculates its credit allowed for customer incentive payments and that your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury.

The light and power business serving your property has the authority to request other information it believes is necessary in making its determinations under the incentive payment program.

**(5) What are the possible procedures your light and power business may follow in setting up your incentive payments?** Recommended procedures you should follow when requesting your light and power businesses to set up your incentive payments are as follows:

First, since participation under this incentive program is voluntary for light and power businesses, contact the light and power business serving your property and ask whether it is participating and what application procedures you must follow.

If your light and power business is participating in the incentive program, then you submit an application to your light and power business.

You submit to your light and power business proof that your renewable energy system is certified by the department of revenue for the incentive payment program.

You submit to the light and power business a copy of the approved certification and letter from the department of revenue. You should submit this information to the light and power business before August 1st in order to receive payment for any production that occurred prior to July 1st.

If your light and power business approves your application, then it will require a signed agreement that it will provide to you.

You or your electrical contractor obtain an electrical permit and install the system.

Once installation is complete your renewable energy system must pass a final electrical inspection from the local code official.

Your local light and power business will send a utility serviceman to inspect your system and install the electric production meter.

Your production meter is read by the light and power business at least annually and it processes your annual incentive payment.

Your light and power business notifies you within sixty days whether your incentive payment is authorized or denied.

Your light and power business calculates annual production payments based on the meter reading or readings made prior to the accounting date of July 1st.

Your incentive payment check (or credit to your account) is sent to you by your light and power business on or before December 15th.

**(6) What is the formal agreement between me and my power and light business?** The formal agreement between you and the power and light business serving your property governs the relationship between you and your light and power business. This document may contain:

The necessary safety requirements;

Allow the light and power business the contractual right to review your substantiation documents for four years, upon five working days' notice;

Allow the light and power business the contractual right to assess against you, with interest, for any overpayment of incentive payments made to you;

Delineate any extra metering costs for an electric production meter to be installed on your property;

A statement allowing the department of revenue to send proof of your system's certification electronically to your light and power business, which will include your department of revenue taxpayer's identification number; and

Other information required by the light and power business to effectuate and properly process your incentive payment.

**(7) How long will it take before I receive notification as to whether the light and power business that serves my property has approved my incentive payment?** The light and power business that serves your property has sixty days to notify you in writing as to whether your request for an incentive payment is authorized or denied.

**(8) How is my incentive payment calculated?** Your incentive

payment is calculated using a formula. First the incentive payment may be paid at fifteen cents per "economic development kilowatt-hour." An economic kilowatt-hour is the actual kilowatt-hour measurement of your generated electricity multiplied by the appropriate economic development factor. The economic development factors, which you multiply to the base rate of fifteen cents per actual kilowatt hours that your renewable energy system produces, are:

Two and four tenths (2.4) if your system generates electricity using only solar modules manufactured in Washington;

One and two tenths (1.2) if your solar or wind system uses an inverter manufactured in Washington;

One (1.0) if your wind system uses only blades manufactured in Washington, or if your system is an anaerobic digester, or if your solar system is other than described above; and

Eight tenths (0.8) if your system is a wind generator with blades not manufactured in Washington.

The following table describes the application of the economic development factors. The actual incentive payment you receive must be computed using your renewable energy system's actual measured electric kilowatt-hours generated.

**Annual Investment Cost Recovery Incentive Payment Calculation Table**

<b>Customer-generated power Applicable rates</b>	<b>Base rate (0.15) multiplied by applicable factor equals incentive payment rate</b>	<b>Kilowatt-hours generated</b>	<b>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</b>
Solar modules manufactured in Washington state <b>Factor: 2.4</b> (two and four-tenths)	\$0.36		
Solar or wind generating equipment with an inverter manufactured in Washington state <b>Factor: 1.2</b> (one and two- tenths)	\$0.18		
Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state <b>Factor: 1.0</b> (one)	\$0.15		
All other electricity produced by wind <b>Factor: 0.8</b> (eight-tenths)	\$0.12		

(9) **Are the factors for systems cumulative?** The factors are cumulative. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington

state, you would compute your economic development hours by using the factor three and six tenths (3.6) (computed 2.4 plus 1.2). Therefore you would multiply the fifteen cent base rate per actual kilowatt-hour generated by your system by three and six tenths (3.6) to get your incentive payment rate.

**(10) What is the definition of the phrase: Manufactured in Washington state?** The department of revenue defines manufacturing in WAC 458-20-136. Of particular interest is WAC 458-20-136(7), which defines when assembly constitutes manufacturing. The department of revenue, in consultation with the climate and rural energy development center at Washington State University's energy extension, will apply this rule on manufacturing when analyzing your request for certification. Further, the climate and rural development center at Washington State University's energy extension may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

For systems installed after the date these rules are adopted, your manufacturer must supply you with a statement delineating your system's level of manufacture in the state of Washington. This manufacturer's statement must be specific as to what processes were carried out in Washington state to qualify the system for one or more of the multiplying factors discussed in subsection (8) of this section. The manufacturer's statement must be under penalty of perjury and specifically state that the manufacturer understands that the department of revenue will use the statement in deciding whether customer incentive payments and corresponding tax credits are allowed under the renewable energy system cost recovery incentive payment program. You must retain this documentation for five years after the receipt of your last incentive payment from your light and power business.

**(11) What are the limitations on the incentive payments?** No individual, business, or local governmental entity is eligible for incentive payments in excess of two thousand dollars per year. However, as an example, if a customer installs a system on his or her home and then further installs two other separate systems on two separate business properties with different UBI numbers, then the customer is allowed the full two thousand dollar annual limit of the incentive payments for each property owned by an individual and each of the two separate businesses. In this example there are three qualifying systems on three separate properties owned by three separate entities allowing the full two thousand dollar limit on all three properties. If, however, the two business properties belong to only one business operating under one UBI number, then there are only allowed incentive payments up to the two thousand dollar annual limit for his or her home and for the one

business. This is true even if the business operates from more than one location with qualifying renewable energy systems at each location because the two thousand dollar annual limit is allowed once to each individual and each business. Thus, in this case the individual and his or her one business are each only allowed one full two thousand dollar annual limit on their qualifying properties.

The issuing of incentive payments by participating light and power businesses is limited by the greater of:

(a) Twenty-five one hundredths of one percent (0.25%) of the light and power business' prior year's taxable sales under Washington state's law; or

(b) Twenty-five thousand dollars (\$25,000.00).

Based on this public utility tax credit limitation, your and all other qualifying customers' incentive payments may be proportionally reduced.

The light and power business must measure the actual kilowatt-hours of your renewable energy system's generated electricity using an electric production meter. If your renewable energy system is a hybrid system of combined solar and wind, it will be classified as a solely wind system for purposes of the incentive payment program, unless the solar and wind productions are separately metered. Systems that are interconnected to gas, diesel, ethanol, natural gas or other similarly fueled generators do not qualify for the incentive payment program. If a customer has an older system not manufactured in Washington and a separate new system manufactured in Washington on the same property, both systems will be classified as not made in Washington, unless the old and new systems' production are separately metered.

**(12) Does the light and power business serving my property have to participate in the incentive payment program?** No, each light and power business will have the discretion to decide whether to be part of the incentive payment program.

**(13) If I install a qualified renewable energy system on the apartment building where I am a tenant, can I submit for incentive payments?** No, you must own the property which is served by your renewable energy system. Even if your renewable energy system meets all requirements, except that it is installed on a building where you have a leasehold interest, it will not qualify for incentive payments.

**(14) May an individual, business, or local governmental entity involved in the light and power business or in the gas distribution business apply for incentive payments?** No, the law excludes both light and power businesses and gas distribution businesses from participating in the incentive payment program.

**(15) Must I retain all my records, which substantiate my claim of eligibility for incentive payments?** Yes, you and all other customers applying for and receiving incentive payments



must retain the records substantiating your right to receive the incentive payments and the correct amount for five years. The light and power business that made the payment or the department of revenue may examine the records upon five working days' notice. If the records show that you received an overpayment, the light and power business may assess you for the amount of the overpayment. Conversely, if an underpayment has occurred, the light and power business may authorize a further payment to cover the prior deficiency. Interest will be added to overpayments of incentive payments to you and other customers. The amount of interest you would owe on an overpayment to you by your light and power business is calculated in the same manner that the department of revenue assesses interest upon delinquent taxes under RCW 82.32.050.

**(16) Is there also a public utility tax credit associated with the incentive payments?** Yes, the tax credit is for the benefit of the participating light and power business. Your light and power company is allowed a credit on its Washington state public utility taxes equal to the actual amount paid out as incentive payments to its customers under this law. The maximum amount of this credit is limited (see subsection (11) of this section).

**(17) Does the department of revenue consider the incentive payment I receive taxable income?** No, the department of revenue characterized the payment you receive, paid by your light and power company, as a subsidy or rebate for the purchase or installation of an energy conservation measure. Therefore, the department does not characterize the incentive payment as income under Washington state's law.

**(18) How is my incentive payment from the light and power business handled if the incentive is paid in the form of a credit against my power bill?** If your light and power business chooses this method, your incentive payment will be shown on your customer billing statement as a credit offsetting the amount you owe to the light and power business. The incentive payment is not a discount. Thus, the light and power business will only be allowed to claim a public utility tax credit for the incentive payments actually made, and is not also allowed a discount deduction.

**(19) Is the federal government eligible to participate in the incentive payment program?** No, only individuals, businesses, and local governments whose properties and renewable energy systems are located in the state of Washington are eligible to participate in the incentive payment program.

**(20) Are individuals, businesses and local governments that are not interconnected to the electric transmission and distribution system and who are not customers of a light and power business eligible for the incentive payment program?** No, only qualifying renewable energy systems located on

interconnected properties belonging to customers of a light and power business are eligible for participation in the incentive payment program.

(21) **Does the law require that light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system and if so, how does that affect me as a customer?** Yes, the law does require that light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system. However, the renewable energy tax credit implementation advisory committee, consisting of the department of revenue, department of community, trade, and economic development, utilities and transportation commission, and the climate and rural energy development center at Washington State University's energy extension, has made a determination that for purposes of this incentive payment program, that the customer load requirement has been met. This decision, once made, is binding for the incentive payment program until its expiration, including any possible extensions. Thus, this requirement has no effect on any customer, when deciding whether to participate in this incentive payment program.